

1 **NATURAL RESOURCES DEVELOPMENT**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Mike Dmitrich**

5 House Sponsor: \_\_\_\_\_

6 

---

---

**LONG TITLE**

7 **General Description:**

8 This bill addresses natural gas contracts and taxes on the development of coal-to-liquid,  
9 oil shale, and tar sands technology.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ allows the Public Service Commission to approve long-term contracts for sales of  
14 natural gas derived from coal-to-liquid, oil shale, and tar sands technology;
- 15 ▶ exempts sales of some property used in the research and development of  
16 coal-to-liquid, oil shale, and tar sands technology from sales and use tax;
- 17 ▶ exempts from the oil and gas severance tax oil or gas that is produced, saved, sold,  
18 or transported and derived from:
- 19 • coal-to-liquids technology;
  - 20 • oil shale; or
  - 21 • tar sands; and
- 22 ▶ makes technical changes.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill takes effect on July 1, 2006.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-5-101**, as last amended by Chapter 244, Laws of Utah 2004

31 **59-12-102**, as last amended by Chapters 158 and 246, Laws of Utah 2005

32 **59-12-104**, as last amended by Chapters 158, 203, 209, 240 and 246, Laws of Utah  
33 2005

34 ENACTS:

35 **54-4-38**, Utah Code Annotated 1953

36 **59-5-120**, Utah Code Annotated 1953



38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **54-4-38** is enacted to read:

40 **54-4-38. Natural gas derived from new technologies -- Long-term contracts.**

41 (1) As used in this section:

42 (a) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

43 (b) "Long-term contract" means a contract greater than five years in duration, but no  
44 greater than ten years in duration.

45 (c) "Oil shale" means a group of fine black to dark brown shales containing bituminous  
46 material that yields petroleum upon distillation.

47 (d) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon and  
48 require further processing other than mechanical blending before becoming finished petroleum  
49 products.

50 (2) (a) The commission shall approve a long-term contract for the sale of natural gas  
51 derived from coal-to-liquid, oil shale, or tar sands technology to a utility if the commission  
52 considers the contract prudent.

53 (b) The commission may not review the prudence of a long-term contract earlier than  
54 five years after the contract is first approved by the commission under Subsection (2)(a).

55 (c) The commission shall review the prudence of a long-term contract five years after  
56 the contract is first approved by the commission under Subsection (2)(a).

57 Section 2. Section **59-5-101** is amended to read:

58 **59-5-101. Definitions.**

59 As used in this part:

60 (1) "Board" means the Board of Oil, Gas and Mining created in Section 40-6-4.

61 (2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

62 [~~(2)~~] (3) "Condensate" means those hydrocarbons, regardless of gravity, that occur  
63 naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids  
64 through the process of condensation either in the reservoir, in the wellbore, or at the surface in  
65 field separators.

66 [~~(3)~~] (4) "Crude oil" means those hydrocarbons, regardless of gravity, that occur  
67 naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in  
68 liquid form.

69 [~~(4)~~] (5) "Development well" means any oil and gas producing well other than a  
70 wildcat well.

71 [~~(5)~~] (6) "Division" means the Division of Oil, Gas and Mining established under Title  
72 40, Chapter 6.

73 [~~(6)~~] (7) "Enhanced recovery project" means:

74 (a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a  
75 reservoir for the purpose of:

76 (i) augmenting reservoir energy;

77 (ii) modifying the properties of the fluids or gases in a reservoir; or

78 (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and  
79 gas through the joint use of two or more well bores; and

80 (b) a project initially approved by the board as a new or expanded enhanced recovery  
81 project on or after January 1, 1996.

82 [~~(7)~~] (8) (a) "Gas" means:

83 (i) natural gas;

84 (ii) natural gas liquids; or

85 (iii) any mixture of natural gas and natural gas liquids.

86 (b) "Gas" does not include solid hydrocarbons.

87 [~~(8)~~] (9) "Incremental production" means that part of production, certified by the  
88 Division of Oil, Gas and Mining, which is achieved from an enhanced recovery project that  
89 would not have economically occurred under the reservoir conditions existing before the

90 project and that has been approved by the division as incremental production.

91 ~~[(9)]~~ (10) "Natural gas" means those hydrocarbons, other than oil and other than  
92 natural gas liquids separated from natural gas, that occur naturally in the gaseous phase in the  
93 reservoir and are produced and recovered at the wellhead in gaseous form.

94 ~~[(10)]~~ (11) "Natural gas liquids" means those hydrocarbons initially in reservoir natural  
95 gas, regardless of gravity, that are separated in gas processing plants from the natural gas as  
96 liquids at the surface through the process of condensation, absorption, adsorption, or other  
97 methods.

98 ~~[(11)]~~ (12) (a) "Oil" means:

99 (i) crude oil;

100 (ii) condensate; or

101 (iii) any mixture of crude oil and condensate.

102 (b) "Oil" does not include solid hydrocarbons.

103 ~~[(12)]~~ (13) "Oil or gas field" means a geographical area overlying oil or gas structures.

104 The boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board and  
105 Division of Oil, Gas and Mining under Title 40, Chapter 6, Board and Division of Oil, Gas and  
106 Mining.

107 (14) "Oil shale" means a group of fine black to dark brown shales containing  
108 bituminous material that yields petroleum upon distillation.

109 ~~[(13)]~~ (15) "Operator" means any person engaged in the business of operating an oil or  
110 gas well, regardless of whether the person is:

111 (a) a working interest owner;

112 (b) an independent contractor; or

113 (c) acting in a capacity similar to Subsection ~~[(13)]~~ (15)(a) or (b) as determined by the  
114 commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative  
115 Rulemaking Act.

116 ~~[(14)]~~ (16) "Owner" means any person having a working interest, royalty interest,  
117 payment out of production, or any other interest in the oil or gas produced or extracted from an  
118 oil or gas well in the state, or in the proceeds of this production.

119 ~~[(15)]~~ (17) (a) Subject to Subsections ~~[(15)]~~ (17)(b) and (c), "processing costs" means  
120 the reasonable actual costs of processing oil or gas to remove:

- 121 (i) natural gas liquids; or  
122 (ii) contaminants.
- 123 (b) If processing costs are determined on the basis of an arm's-length contract,  
124 processing costs are the actual costs.
- 125 (c) (i) If processing costs are determined on a basis other than an arm's-length contract,  
126 processing costs are those reasonable costs associated with:
- 127 (A) actual operating and maintenance expenses, including oil or gas used or consumed  
128 in processing;
- 129 (B) overhead directly attributable and allocable to the operation and maintenance; and  
130 (C) (I) depreciation and a return on undepreciated capital investment; or  
131 (II) a cost equal to a return on the investment in the processing facilities as determined  
132 by the commission.
- 133 (ii) Subsection ~~[(15)]~~ (17)(c)(i) includes situations where the producer performs the  
134 processing for the producer's product.
- 135 ~~[(16)]~~ (18) "Producer" means any working interest owner in any lands in any oil or gas  
136 field from which gas or oil is produced.
- 137 ~~[(17)]~~ (19) "Recompletion" means any downhole operation that is:
- 138 (a) conducted to reestablish the producibility or serviceability of a well in any geologic  
139 interval; and
- 140 (b) approved by the division as a recompletion.
- 141 (20) "Research and development" means the process of inquiry or experimentation  
142 aimed at the discovery of facts, devices, technologies, or applications and the process of  
143 preparing those devices, technologies, or applications for marketing.
- 144 ~~[(18)]~~ (21) "Royalty interest owner" means the owner of an interest in oil or gas, or in  
145 the proceeds of production from the oil or gas who does not have the obligation to share in the  
146 expenses of developing and operating the property.
- 147 ~~[(19)]~~ (22) "Solid hydrocarbons" means:
- 148 (a) coal;  
149 (b) gilsonite;  
150 (c) ozocerite;  
151 (d) elaterite;

- 152 (e) oil shale;
- 153 (f) tar sands; and
- 154 (g) all other hydrocarbon substances that occur naturally in solid form.

155 [~~20~~] (23) "Stripper well" means:

156 (a) an oil well whose average daily production for the days the well has produced has  
157 been 20 barrels or less of crude oil a day during any consecutive 12-month period; or

158 (b) a gas well whose average daily production for the days the well has produced has  
159 been 60 MCF or less of natural gas a day during any consecutive 90-day period.

160 (24) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon  
161 and require further processing other than mechanical blending before becoming finished  
162 petroleum products.

163 [~~21~~] (25) (a) Subject to Subsections [~~21~~] (25)(b) and (c), "transportation costs"  
164 means the reasonable actual costs of transporting oil or gas products from the well to the point  
165 of sale.

166 (b) If transportation costs are determined on the basis of an arm's-length contract,  
167 transportation costs are the actual costs.

168 (c) (i) If transportation costs are determined on a basis other than an arm's-length  
169 contract, transportation costs are those reasonable costs associated with:

170 (A) actual operating and maintenance expenses, including fuel used or consumed in  
171 transporting the oil or gas;

172 (B) overhead costs directly attributable and allocable to the operation and maintenance;  
173 and

174 (C) depreciation and a return on undepreciated capital investment.

175 (ii) Subsection [~~21~~] (25)(c)(i) includes situations where the producer performs the  
176 transportation for the producer's product.

177 (d) Regardless of whether transportation costs are determined on the basis of an  
178 arm's-length contract or a basis other than an arm's-length contract, transportation costs  
179 include:

- 180 (i) carbon dioxide removal;
- 181 (ii) compression;
- 182 (iii) dehydration;

183 (iv) gathering;  
 184 (v) separating;  
 185 (vi) treating; or  
 186 (vii) a process similar to Subsections ~~[(21)]~~ (25)(d)(i) through (vi), as determined by  
 187 the commission by rule made in accordance with Title 63, Chapter 46a, Utah Administrative  
 188 Rulemaking Act.

189 ~~[(22)]~~ (26) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

190 ~~[(23)]~~ (27) "Well or wells" means any extractive means from which oil or gas is  
 191 produced or extracted, located within an oil or gas field, and operated by one person.

192 ~~[(24)]~~ (28) "Wildcat well" means an oil and gas producing well which is drilled and  
 193 completed in a pool, as defined under Section 40-6-2, in which a well has not been previously  
 194 completed as a well capable of producing in commercial quantities.

195 ~~[(25)]~~ (29) "Working interest owner" means the owner of an interest in oil or gas  
 196 burdened with a share of the expenses of developing and operating the property.

197 ~~[(26)]~~ (30) (a) "Workover" means any downhole operation that is:

198 (i) conducted to sustain, restore, or increase the producibility or serviceability of a well  
 199 in the geologic intervals in which the well is currently completed; and  
 200 (ii) approved by the division as a workover.

201 (b) "Workover" does not include operations that are conducted primarily as routine  
 202 maintenance or to replace worn or damaged equipment.

203 Section 3. Section **59-5-120** is enacted to read:

204 **59-5-120. Exemption.**

205 Beginning on July 1, 2006 and ending on June 30, 2016, a person is exempt from  
 206 paying the severance tax required by this chapter for oil and gas produced, saved, sold, or  
 207 transported if the oil or gas produced, saved, sold, or transported is derived from:

208 (1) coal-to-liquids technology;

209 (2) oil shale; or

210 (3) tar sands.

211 Section 4. Section **59-12-102** is amended to read:

212 **59-12-102. Definitions.**

213 As used in this chapter:

- 214 (1) (a) "Admission or user fees" includes season passes.
- 215 (b) "Admission or user fees" does not include annual membership dues to private
- 216 organizations.
- 217 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
- 218 Section 59-12-102.1.
- 219 (3) "Agreement combined tax rate" means the sum of the tax rates:
- 220 (a) listed under Subsection (4); and
- 221 (b) that are imposed within a local taxing jurisdiction.
- 222 (4) "Agreement sales and use tax" means a tax imposed under:
- 223 (a) Subsection 59-12-103(2)(a)(i);
- 224 (b) Section 59-12-204;
- 225 (c) Section 59-12-401;
- 226 (d) Section 59-12-402;
- 227 (e) Section 59-12-501;
- 228 (f) Section 59-12-502;
- 229 (g) Section 59-12-703;
- 230 (h) Section 59-12-802;
- 231 (i) Section 59-12-804;
- 232 (j) Section 59-12-1001;
- 233 (k) Section 59-12-1102;
- 234 (l) Section 59-12-1302;
- 235 (m) Section 59-12-1402; or
- 236 (n) Section 59-12-1503.
- 237 (5) "Aircraft" is as defined in Section 72-10-102.
- 238 (6) "Alcoholic beverage" means a beverage that:
- 239 (a) is suitable for human consumption; and
- 240 (b) contains .5% or more alcohol by volume.
- 241 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 242 (8) "Authorized carrier" means:
- 243 (a) in the case of vehicles operated over public highways, the holder of credentials
- 244 indicating that the vehicle is or will be operated pursuant to both the International Registration



245 Plan and the International Fuel Tax Agreement;

246 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
247 certificate or air carrier's operating certificate; or

248 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
249 stock, the holder of a certificate issued by the United States Surface Transportation Board.

250 (9) (a) Except as provided in Subsection (9)(b), "biomass energy" means any of the  
251 following that is used as the primary source of energy to produce fuel or electricity:

252 (i) material from a plant or tree; or

253 (ii) other organic matter that is available on a renewable basis, including:

254 (A) slash and brush from forests and woodlands;

255 (B) animal waste;

256 (C) methane produced:

257 (I) at landfills; or

258 (II) as a byproduct of the treatment of wastewater residuals;

259 (D) aquatic plants; and

260 (E) agricultural products.

261 (b) "Biomass energy" does not include:

262 (i) black liquor;

263 (ii) treated woods; or

264 (iii) biomass from municipal solid waste other than methane produced:

265 (A) at landfills; or

266 (B) as a byproduct of the treatment of wastewater residuals.

267 (10) "Certified automated system" means software certified by the governing board of  
268 the agreement in accordance with Section 59-12-102.1 that:

269 (a) calculates the agreement sales and use tax imposed within a local taxing  
270 jurisdiction:

271 (i) on a transaction; and

272 (ii) in the states that are members of the agreement;

273 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
274 member of the agreement; and

275 (c) maintains a record of the transaction described in Subsection (10)(a)(i).

276 (11) "Certified service provider" means an agent certified:

277 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;

278 and

279 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
280 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's  
281 own purchases.

282 (12) (a) Subject to Subsection (12)(b), "clothing" means all human wearing apparel  
283 suitable for general use.

284 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
285 commission shall make rules:

286 (i) listing the items that constitute "clothing"; and

287 (ii) that are consistent with the list of items that constitute "clothing" under the  
288 agreement.

289 (13) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

290 [~~(13)~~] (14) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement  
291 device" means:

292 (i) a coin-operated amusement, skill, or ride device;

293 (ii) that is not controlled through seller-assisted, over-the-counter, sales of tokens; and

294 (iii) includes a music machine, pinball machine, billiard machine, video game machine,  
295 arcade machine, and a mechanical or electronic skill game or ride.

296 (b) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" does  
297 not mean a coin-operated amusement device possessing a coinage mechanism that:

298 (i) accepts and registers multiple denominations of coins; and

299 (ii) allows the seller to collect the sales and use tax at the time an amusement device is  
300 activated and operated by a person inserting coins into the device.

301 [~~(14)~~] (15) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or  
302 other fuels that does not constitute industrial use under Subsection [~~(34)~~] (35) or residential use  
303 under Subsection [~~(68)~~] (71).

304 [~~(15)~~] (16) (a) "Common carrier" means a person engaged in or transacting the  
305 business of transporting passengers, freight, merchandise, or other property for hire within this  
306 state.

307 (b) (i) "Common carrier" does not include a person who, at the time the person is  
308 traveling to or from that person's place of employment, transports a passenger to or from the  
309 passenger's place of employment.

310 (ii) For purposes of Subsection [~~(15)~~] (16)(b)(i), in accordance with Title 63, Chapter  
311 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what  
312 constitutes a person's place of employment.

313 [~~(16)~~] (17) "Component part" includes:

314 (a) poultry, dairy, and other livestock feed, and their components;

315 (b) baling ties and twine used in the baling of hay and straw;

316 (c) fuel used for providing temperature control of orchards and commercial  
317 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
318 off-highway type farm machinery; and

319 (d) feed, seeds, and seedlings.

320 [~~(17)~~] (18) "Computer" means an electronic device that accepts information:

321 (a) (i) in digital form; or

322 (ii) in a form similar to digital form; and

323 (b) manipulates that information for a result based on a sequence of instructions.

324 [~~(18)~~] (19) "Computer software" means a set of coded instructions designed to cause:

325 (a) a computer to perform a task; or

326 (b) automatic data processing equipment to perform a task.

327 [~~(19)~~] (20) "Construction materials" means any tangible personal property that will be  
328 converted into real property.

329 [~~(20)~~] (21) "Delivered electronically" means delivered to a purchaser by means other  
330 than tangible storage media.

331 [~~(21)~~] (22) (a) "Delivery charge" means a charge:

332 (i) by a seller of:

333 (A) tangible personal property; or

334 (B) services; and

335 (ii) for preparation and delivery of the tangible personal property or services described  
336 in Subsection [~~(21)~~] (22)(a)(i) to a location designated by the purchaser.

337 (b) "Delivery charge" includes a charge for the following:

- 338 (i) transportation;
- 339 (ii) shipping;
- 340 (iii) postage;
- 341 (iv) handling;
- 342 (v) crating; or
- 343 (vi) packing.
- 344 [~~(22)~~] (23) "Dietary supplement" means a product, other than tobacco, that:
- 345 (a) is intended to supplement the diet;
- 346 (b) contains one or more of the following dietary ingredients:
- 347 (i) a vitamin;
- 348 (ii) a mineral;
- 349 (iii) an herb or other botanical;
- 350 (iv) an amino acid;
- 351 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 352 dietary intake; or
- 353 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 354 described in Subsections [~~(22)~~] (23)(b)(i) through (v);
- 355 (c) (i) except as provided in Subsection [~~(22)~~] (23)(c)(ii), is intended for ingestion in:
- 356 (A) tablet form;
- 357 (B) capsule form;
- 358 (C) powder form;
- 359 (D) softgel form;
- 360 (E) gelcap form; or
- 361 (F) liquid form; or
- 362 (ii) notwithstanding Subsection [~~(22)~~] (23)(c)(i), if the product is not intended for
- 363 ingestion in a form described in Subsections [~~(22)~~] (23)(c)(i)(A) through (F), is not
- 364 represented:
- 365 (A) as conventional food; and
- 366 (B) for use as a sole item of:
- 367 (I) a meal; or
- 368 (II) the diet; and

369 (d) is required to be labeled as a dietary supplement:

370 (i) identifiable by the "Supplemental Facts" box found on the label; and

371 (ii) as required by 21 C.F.R. Sec. 101.36.

372 [~~(23)~~] (24) (a) "Direct mail" means printed material delivered or distributed by United

373 States mail or other delivery service:

374 (i) to:

375 (A) a mass audience; or

376 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

377 (ii) if the cost of the printed material is not billed directly to the recipients.

378 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a

379 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

380 (c) "Direct mail" does not include multiple items of printed material delivered to a

381 single address.

382 [~~(24)~~] (25) (a) "Drug" means a compound, substance, or preparation, or a component of

383 a compound, substance, or preparation that is:

384 (i) recognized in:

385 (A) the official United States Pharmacopoeia;

386 (B) the official Homeopathic Pharmacopoeia of the United States;

387 (C) the official National Formulary; or

388 (D) a supplement to a publication listed in Subsections [~~(24)~~] (25)(a)(i)(A) through

389 (C);

390 (ii) intended for use in the:

391 (A) diagnosis of disease;

392 (B) cure of disease;

393 (C) mitigation of disease;

394 (D) treatment of disease; or

395 (E) prevention of disease; or

396 (iii) intended to affect:

397 (A) the structure of the body; or

398 (B) any function of the body.

399 (b) "Drug" does not include:

- 400 (i) food and food ingredients;
- 401 (ii) a dietary supplement;
- 402 (iii) an alcoholic beverage; or
- 403 (iv) a prosthetic device.

404 ~~[(25)]~~ (26) (a) Except as provided in Subsection ~~[(25)]~~ (26)(c), "durable medical  
405 equipment" means equipment that:

- 406 (i) can withstand repeated use;
- 407 (ii) is primarily and customarily used to serve a medical purpose;
- 408 (iii) generally is not useful to a person in the absence of illness or injury; and
- 409 (iv) is not worn in or on the body.

410 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
411 equipment described in Subsection ~~[(25)]~~ (26)(a).

412 (c) Notwithstanding Subsection ~~[(25)]~~ (26)(a), "durable medical equipment" does not  
413 include mobility enhancing equipment.

414 ~~[(26)]~~ (27) "Electronic" means:

- 415 (a) relating to technology; and
- 416 (b) having:
  - 417 (i) electrical capabilities;
  - 418 (ii) digital capabilities;
  - 419 (iii) magnetic capabilities;
  - 420 (iv) wireless capabilities;
  - 421 (v) optical capabilities;
  - 422 (vi) electromagnetic capabilities; or
  - 423 (vii) capabilities similar to Subsections ~~[(26)]~~ (27)(b)(i) through (vi).

424 ~~[(27)]~~ (28) (a) "Food and food ingredients" means substances:

- 425 (i) regardless of whether the substances are in:
  - 426 (A) liquid form;
  - 427 (B) concentrated form;
  - 428 (C) solid form;
  - 429 (D) frozen form;
  - 430 (E) dried form; or

- 431 (F) dehydrated form; and  
432 (ii) that are:  
433 (A) sold for:  
434 (I) ingestion by humans; or  
435 (II) chewing by humans; and  
436 (B) consumed for the substance's:  
437 (I) taste; or  
438 (II) nutritional value.  
439 (b) "Food and food ingredients" does not include:  
440 (i) an alcoholic beverage;  
441 (ii) tobacco; or  
442 (iii) prepared food.  
443 [~~(28)~~] (29) (a) "Fundraising sales" means sales:  
444 (i) (A) made by a school; or  
445 (B) made by a school student;  
446 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
447 materials, or provide transportation; and  
448 (iii) that are part of an officially sanctioned school activity.  
449 (b) For purposes of Subsection [~~(28)~~] (29)(a)(iii), "officially sanctioned school activity"  
450 means a school activity:  
451 (i) that is conducted in accordance with a formal policy adopted by the school or school  
452 district governing the authorization and supervision of fundraising activities;  
453 (ii) that does not directly or indirectly compensate an individual teacher or other  
454 educational personnel by direct payment, commissions, or payment in kind; and  
455 (iii) the net or gross revenues from which are deposited in a dedicated account  
456 controlled by the school or school district.  
457 [~~(29)~~] (30) "Geothermal energy" means energy contained in heat that continuously  
458 flows outward from the earth that is used as the sole source of energy to produce electricity.  
459 [~~(30)~~] (31) "Governing board of the agreement" means the governing board of the  
460 agreement that is:  
461 (a) authorized to administer the agreement; and

- 462 (b) established in accordance with the agreement.
- 463 [~~(31)~~] (32) (a) "Hearing aid" means:
- 464 (i) an instrument or device having an electronic component that is designed to:
- 465 (A) (I) improve impaired human hearing; or
- 466 (II) correct impaired human hearing; and
- 467 (B) (I) be worn in the human ear; or
- 468 (II) affixed behind the human ear;
- 469 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 470 (iii) a telephone amplifying device.
- 471 (b) "Hearing aid" does not include:
- 472 (i) except as provided in Subsection [~~(31)~~] (32)(a)(i)(B) or [~~(31)~~] (32)(a)(ii), an
- 473 instrument or device having an electronic component that is designed to be worn on the body;
- 474 (ii) except as provided in Subsection [~~(31)~~] (32)(a)(iii), an assistive listening device or
- 475 system designed to be used by one individual, including:
- 476 (A) a personal amplifying system;
- 477 (B) a personal FM system;
- 478 (C) a television listening system; or
- 479 (D) a device or system similar to a device or system described in Subsections [~~(31)~~]
- 480 (32)(b)(ii)(A) through (C); or
- 481 (iii) an assistive listening device or system designed to be used by more than one
- 482 individual, including:
- 483 (A) a device or system installed in:
- 484 (I) an auditorium;
- 485 (II) a church;
- 486 (III) a conference room;
- 487 (IV) a synagogue; or
- 488 (V) a theater; or
- 489 (B) a device or system similar to a device or system described in Subsections [~~(31)~~]
- 490 (32)(b)(iii)(A)(I) through (V).
- 491 [~~(32)~~] (33) (a) "Hearing aid accessory" means a hearing aid:
- 492 (i) component;



- 493 (ii) attachment; or  
494 (iii) accessory.  
495 (b) "Hearing aid accessory" includes:  
496 (i) a hearing aid neck loop;  
497 (ii) a hearing aid cord;  
498 (iii) a hearing aid ear mold;  
499 (iv) hearing aid tubing;  
500 (v) a hearing aid ear hook; or  
501 (vi) a hearing aid remote control.  
502 (c) "Hearing aid accessory" does not include:  
503 (i) a component, attachment, or accessory designed to be used only with an:  
504 (A) instrument or device described in Subsection [~~(31)~~] (32)(b)(i); or  
505 (B) assistive listening device or system described in Subsection [~~(31)~~] (32)(b)(ii) or  
506 (iii); or  
507 (ii) a hearing aid battery.  
508 [~~(33)~~] (34) "Hydroelectric energy" means water used as the sole source of energy to  
509 produce electricity.  
510 [~~(34)~~] (35) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,  
511 or other fuels:  
512 (a) in mining or extraction of minerals;  
513 (b) in agricultural operations to produce an agricultural product up to the time of  
514 harvest or placing the agricultural product into a storage facility, including:  
515 (i) commercial greenhouses;  
516 (ii) irrigation pumps;  
517 (iii) farm machinery;  
518 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not  
519 registered under Title 41, Chapter 1a, Part 2, Registration; and  
520 (v) other farming activities;  
521 (c) in manufacturing tangible personal property at an establishment described in SIC  
522 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal  
523 Executive Office of the President, Office of Management and Budget; or

524 (d) by a scrap recycler if:

525 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
526 one or more of the following items into prepared grades of processed materials for use in new  
527 products:

528 (A) iron;

529 (B) steel;

530 (C) nonferrous metal;

531 (D) paper;

532 (E) glass;

533 (F) plastic;

534 (G) textile; or

535 (H) rubber; and

536 (ii) the new products under Subsection [~~(34)~~] (35)(d)(i) would otherwise be made with  
537 nonrecycled materials.

538 [~~(35)~~] (36) (a) Except as provided in Subsection [~~(35)~~] (36)(b), "installation charge"  
539 means a charge for installing tangible personal property.

540 (b) Notwithstanding Subsection [~~(35)~~] (36)(a), "installation charge" does not include a  
541 charge for repairs or renovations of tangible personal property.

542 [~~(36)~~] (37) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
543 personal property for:

544 (i) (A) a fixed term; or

545 (B) an indeterminate term; and

546 (ii) consideration.

547 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
548 amount of consideration may be increased or decreased by reference to the amount realized  
549 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
550 Code.

551 (c) "Lease" or "rental" does not include:

552 (i) a transfer of possession or control of property under a security agreement or  
553 deferred payment plan that requires the transfer of title upon completion of the required  
554 payments;

555 (ii) a transfer of possession or control of property under an agreement that requires the  
556 transfer of title:

557 (A) upon completion of required payments; and

558 (B) if the payment of an option price does not exceed the greater of:

559 (I) \$100; or

560 (II) 1% of the total required payments; or

561 (iii) providing tangible personal property along with an operator for a fixed period of  
562 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
563 designed.

564 (d) For purposes of Subsection [~~36~~] (37)(c)(iii), an operator is necessary for  
565 equipment to perform as designed if the operator's duties exceed the:

566 (i) set-up of tangible personal property;

567 (ii) maintenance of tangible personal property; or

568 (iii) inspection of tangible personal property.

569 [~~37~~] (38) "Load and leave" means delivery to a purchaser by use of a tangible storage  
570 media if the tangible storage media is not physically transferred to the purchaser.

571 [~~38~~] (39) "Local taxing jurisdiction" means a:

572 (a) county that is authorized to impose an agreement sales and use tax;

573 (b) city that is authorized to impose an agreement sales and use tax; or

574 (c) town that is authorized to impose an agreement sales and use tax.

575 [~~39~~] (40) "Manufactured home" is as defined in Section 58-56-3.

576 [~~40~~] (41) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

577 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard

578 Industrial Classification Manual of the federal Executive Office of the President, Office of  
579 Management and Budget; or

580 (b) a scrap recycler if:

581 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
582 one or more of the following items into prepared grades of processed materials for use in new  
583 products:

584 (A) iron;

585 (B) steel;

- 586 (C) nonferrous metal;
- 587 (D) paper;
- 588 (E) glass;
- 589 (F) plastic;
- 590 (G) textile; or
- 591 (H) rubber; and
- 592 (ii) the new products under Subsection [~~(40)~~] (41)(b)(i) would otherwise be made with
- 593 nonrecycled materials.

594 [~~(41)~~] (42) "Mobile home" is as defined in Section 58-56-3.

595 [~~(42)~~] (43) "Mobile telecommunications service" is as defined in the Mobile  
596 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

597 [~~(43)~~] (44) (a) Except as provided in Subsection [~~(43)~~] (44)(c), "mobility enhancing  
598 equipment" means equipment that is:

599 (i) primarily and customarily used to provide or increase the ability to move from one  
600 place to another;

601 (ii) appropriate for use in a:

602 (A) home; or

603 (B) motor vehicle; and

604 (iii) not generally used by persons with normal mobility.

605 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
606 the equipment described in Subsection [~~(43)~~] (44)(a).

607 (c) Notwithstanding Subsection [~~(43)~~] (44)(a), "mobility enhancing equipment" does  
608 not include:

609 (i) a motor vehicle;

610 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
611 vehicle manufacturer;

612 (iii) durable medical equipment; or

613 (iv) a prosthetic device.

614 [~~(44)~~] (45) "Model 1 seller" means a seller that has selected a certified service provider  
615 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales  
616 and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the

617 seller's own purchases.

618 ~~[(45)]~~ (46) "Model 2 seller" means a seller that:

619 (a) except as provided in Subsection ~~[(45)]~~ (46)(b), has selected a certified automated  
620 system to perform the seller's sales tax functions for agreement sales and use taxes; and

621 (b) notwithstanding Subsection ~~[(45)]~~ (46)(a), retains responsibility for remitting all of  
622 the sales tax:

623 (i) collected by the seller; and

624 (ii) to the appropriate local taxing jurisdiction.

625 ~~[(46)]~~ (47) (a) Subject to Subsection ~~[(46)]~~ (47)(b), "model 3 seller" means a seller that  
626 has:

627 (i) sales in at least five states that are members of the agreement;

628 (ii) total annual sales revenues of at least \$500,000,000;

629 (iii) a proprietary system that calculates the amount of tax:

630 (A) for an agreement sales and use tax; and

631 (B) due to each local taxing jurisdiction; and

632 (iv) entered into a performance agreement with the governing board of the agreement.

633 (b) For purposes of Subsection ~~[(46)]~~ (47)(a), "model 3 seller" includes an affiliated  
634 group of sellers using the same proprietary system.

635 ~~[(47)]~~ (48) "Modular home" means a modular unit as defined in Section 58-56-3.

636 ~~[(48)]~~ (49) "Motor vehicle" is as defined in Section 41-1a-102.

637 (50) "Oil shale" means a group of fine black to dark brown shales containing  
638 bituminous material that yields petroleum upon distillation.

639 ~~[(49)]~~ (51) (a) "Other fuels" means products that burn independently to produce heat or  
640 energy.

641 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
642 personal property.

643 ~~[(50)]~~ (52) "Pawnbroker" is as defined in Section 13-32a-102.

644 ~~[(51)]~~ (53) "Pawn transaction" is as defined in Section 13-32a-102.

645 ~~[(52)]~~ (54) (a) "Permanently attached to real property" means that for tangible personal  
646 property attached to real property:

647 (i) the attachment of the tangible personal property to the real property:

648 (A) is essential to the use of the tangible personal property; and  
649 (B) suggests that the tangible personal property will remain attached to the real  
650 property in the same place over the useful life of the tangible personal property; or  
651 (ii) if the tangible personal property is detached from the real property, the detachment  
652 would:  
653 (A) cause substantial damage to the tangible personal property; or  
654 (B) require substantial alteration or repair of the real property to which the tangible  
655 personal property is attached.  
656 (b) "Permanently attached to real property" includes:  
657 (i) the attachment of an accessory to the tangible personal property if the accessory is:  
658 (A) essential to the operation of the tangible personal property; and  
659 (B) attached only to facilitate the operation of the tangible personal property; or  
660 (ii) a temporary detachment of tangible personal property from real property for a  
661 repair or renovation if the repair or renovation is performed where the tangible personal  
662 property and real property are located.  
663 (c) "Permanently attached to real property" does not include:  
664 (i) the attachment of portable or movable tangible personal property to real property if  
665 that portable or movable tangible personal property is attached to real property only for:  
666 (A) convenience;  
667 (B) stability; or  
668 (C) for an obvious temporary purpose; or  
669 (ii) the detachment of tangible personal property from real property other than the  
670 detachment described in Subsection [~~52~~] (54)(b)(ii).  
671 [~~53~~] (55) "Person" includes any individual, firm, partnership, joint venture,  
672 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,  
673 city, municipality, district, or other local governmental entity of the state, or any group or  
674 combination acting as a unit.  
675 [~~54~~] (56) "Place of primary use":  
676 (a) for telephone service other than mobile telecommunications service, means the  
677 street address representative of where the purchaser's use of the telephone service primarily  
678 occurs, which shall be:

- 679 (i) the residential street address of the purchaser; or
- 680 (ii) the primary business street address of the purchaser; or
- 681 (b) for mobile telecommunications service, is as defined in the Mobile
- 682 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 683 [~~55~~] (57) "Postproduction" means an activity related to the finishing or duplication of
- 684 a medium described in Subsection 59-12-104(60)(a).
- 685 [~~56~~] (58) (a) "Prepared food" means:
- 686 (i) food:
- 687 (A) sold in a heated state; or
- 688 (B) heated by a seller;
- 689 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 690 item; or
- 691 (iii) except as provided in Subsection [~~56~~] (58)(c), food sold with an eating utensil
- 692 provided by the seller, including a:
- 693 (A) plate;
- 694 (B) knife;
- 695 (C) fork;
- 696 (D) spoon;
- 697 (E) glass;
- 698 (F) cup;
- 699 (G) napkin; or
- 700 (H) straw.
- 701 (b) "Prepared food" does not include:
- 702 (i) food that a seller only:
- 703 (A) cuts;
- 704 (B) repackages; or
- 705 (C) pasteurizes; or
- 706 (ii) (A) the following:
- 707 (I) raw egg;
- 708 (II) raw fish;
- 709 (III) raw meat;

710 (IV) raw poultry; or  
711 (V) a food containing an item described in Subsections [~~56~~] (58)(b)(ii)(A)(I) through  
712 (IV); and

713 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
714 Food and Drug Administration's Food Code that a consumer cook the items described in  
715 Subsection [~~56~~] (58)(b)(ii)(A) to prevent food borne illness.

716 (c) Notwithstanding Subsection [~~56~~] (58)(a)(iii), an eating utensil provided by the  
717 seller does not include the following used to transport the food:

- 718 (i) a container; or
- 719 (ii) packaging.

720 [~~57~~] (59) "Prescription" means an order, formula, or recipe that is issued:

- 721 (a) (i) orally;
- 722 (ii) in writing;
- 723 (iii) electronically; or
- 724 (iv) by any other manner of transmission; and

725 (b) by a licensed practitioner authorized by the laws of a state.

726 [~~58~~] (60) (a) Except as provided in Subsection [~~58~~] (60)(b)(ii) or (iii), "prewritten  
727 computer software" means computer software that is not designed and developed:

- 728 (i) by the author or other creator of the computer software; and
- 729 (ii) to the specifications of a specific purchaser.

730 (b) "Prewritten computer software" includes:

731 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
732 software is not designed and developed:

- 733 (A) by the author or other creator of the computer software; and
- 734 (B) to the specifications of a specific purchaser;

735 (ii) notwithstanding Subsection [~~58~~] (60)(a), computer software designed and  
736 developed by the author or other creator of the computer software to the specifications of a  
737 specific purchaser if the computer software is sold to a person other than the purchaser; or

738 (iii) notwithstanding Subsection [~~58~~] (60)(a) and except as provided in Subsection  
739 [~~58~~] (60)(c), prewritten computer software or a prewritten portion of prewritten computer  
740 software:



- 741 (A) that is modified or enhanced to any degree; and
- 742 (B) if the modification or enhancement described in Subsection [~~(58)~~] (60)(b)(iii)(A) is  
743 designed and developed to the specifications of a specific purchaser.
- 744 (c) Notwithstanding Subsection [~~(58)~~] (60)(b)(iii), "prewritten computer software"  
745 does not include a modification or enhancement described in Subsection [~~(58)~~] (60)(b)(iii) if  
746 the charges for the modification or enhancement are:
- 747 (i) reasonable; and
- 748 (ii) separately stated on the invoice or other statement of price provided to the  
749 purchaser.
- 750 [~~(59)~~] (61) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 751 (i) artificially replace a missing portion of the body;
- 752 (ii) prevent or correct a physical deformity or physical malfunction; or
- 753 (iii) support a weak or deformed portion of the body.
- 754 (b) "Prosthetic device" includes:
- 755 (i) parts used in the repairs or renovation of a prosthetic device; or
- 756 (ii) replacement parts for a prosthetic device.
- 757 (c) "Prosthetic device" does not include:
- 758 (i) corrective eyeglasses;
- 759 (ii) contact lenses;
- 760 (iii) hearing aids; or
- 761 (iv) dental prostheses.
- 762 [~~(60)~~] (62) (a) "Protective equipment" means an item:
- 763 (i) for human wear; and
- 764 (ii) that is:
- 765 (A) designed as protection:
- 766 (I) to the wearer against injury or disease; or
- 767 (II) against damage or injury of other persons or property; and
- 768 (B) not suitable for general use.
- 769 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
770 commission shall make rules:
- 771 (i) listing the items that constitute "protective equipment"; and

772 (ii) that are consistent with the list of items that constitute "protective equipment"  
773 under the agreement.

774 [~~(61)~~] (63) (a) "Purchase price" and "sales price" mean the total amount of  
775 consideration:

776 (i) valued in money; and

777 (ii) for which tangible personal property or services are:

778 (A) sold;

779 (B) leased; or

780 (C) rented.

781 (b) "Purchase price" and "sales price" include:

782 (i) the seller's cost of the tangible personal property or services sold;

783 (ii) expenses of the seller, including:

784 (A) the cost of materials used;

785 (B) a labor cost;

786 (C) a service cost;

787 (D) interest;

788 (E) a loss;

789 (F) the cost of transportation to the seller; or

790 (G) a tax imposed on the seller; or

791 (iii) a charge by the seller for any service necessary to complete the sale.

792 (c) "Purchase price" and "sales price" do not include:

793 (i) a discount:

794 (A) in a form including:

795 (I) cash;

796 (II) term; or

797 (III) coupon;

798 (B) that is allowed by a seller;

799 (C) taken by a purchaser on a sale; and

800 (D) that is not reimbursed by a third party; or

801 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
802 provided to the purchaser:

- 803 (A) the amount of a trade-in;
- 804 (B) the following from credit extended on the sale of tangible personal property or
- 805 services:
- 806 (I) interest charges;
- 807 (II) financing charges; or
- 808 (III) carrying charges;
- 809 (C) a tax or fee legally imposed directly on the consumer;
- 810 (D) a delivery charge; or
- 811 (E) an installation charge.
- 812 [~~(62)~~] (64) "Purchaser" means a person to whom:
- 813 (a) a sale of tangible personal property is made; or
- 814 (b) a service is furnished.
- 815 [~~(63)~~] (65) "Regularly rented" means:
- 816 (a) rented to a guest for value three or more times during a calendar year; or
- 817 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 818 value.
- 819 [~~(64)~~] (66) "Renewable energy" means:
- 820 (a) biomass energy;
- 821 (b) hydroelectric energy;
- 822 (c) geothermal energy;
- 823 (d) solar energy; or
- 824 (e) wind energy.
- 825 [~~(65)~~] (67) (a) "Renewable energy production facility" means a facility that:
- 826 (i) uses renewable energy to produce electricity; and
- 827 (ii) has a production capacity of 20 kilowatts or greater.
- 828 (b) A facility is a renewable energy production facility regardless of whether the
- 829 facility is:
- 830 (i) connected to an electric grid; or
- 831 (ii) located on the premises of an electricity consumer.
- 832 [~~(66)~~] (68) "Rental" is as defined in Subsection [~~(36)~~] (37).
- 833 [~~(67)~~] (69) "Repairs or renovations of tangible personal property" means:

834 (a) a repair or renovation of tangible personal property that is not permanently attached  
835 to real property; or

836 (b) attaching tangible personal property to other tangible personal property if the other  
837 tangible personal property to which the tangible personal property is attached is not  
838 permanently attached to real property.

839 (70) "Research and development" means the process of inquiry or experimentation  
840 aimed at the discovery of facts, devices, technologies, or applications and the process of  
841 preparing those devices, technologies, or applications for marketing.

842 [~~(68)~~] (71) "Residential use" means the use in or around a home, apartment building,  
843 sleeping quarters, and similar facilities or accommodations.

844 [~~(69)~~] (72) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
845 other than:

846 (a) resale;

847 (b) sublease; or

848 (c) subrent.

849 [~~(70)~~] (73) (a) "Retailer" means any person engaged in a regularly organized business  
850 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),  
851 and who is selling to the user or consumer and not for resale.

852 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
853 engaged in the business of selling to users or consumers within the state.

854 [~~(71)~~] (74) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
855 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
856 Subsection 59-12-103(1), for consideration.

857 (b) "Sale" includes:

858 (i) installment and credit sales;

859 (ii) any closed transaction constituting a sale;

860 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
861 chapter;

862 (iv) any transaction if the possession of property is transferred but the seller retains the  
863 title as security for the payment of the price; and

864 (v) any transaction under which right to possession, operation, or use of any article of

865 tangible personal property is granted under a lease or contract and the transfer of possession  
866 would be taxable if an outright sale were made.

867 ~~[(72)]~~ (75) "Sale at retail" is as defined in Subsection ~~[(69)]~~ (72).

868 ~~[(73)]~~ (76) "Sale-leaseback transaction" means a transaction by which title to tangible  
869 personal property that is subject to a tax under this chapter is transferred:

870 (a) by a purchaser-lessee;

871 (b) to a lessor;

872 (c) for consideration; and

873 (d) if:

874 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
875 of the tangible personal property;

876 (ii) the sale of the tangible personal property to the lessor is intended as a form of  
877 financing:

878 (A) for the property; and

879 (B) to the purchaser-lessee; and

880 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
881 is required to:

882 (A) capitalize the property for financial reporting purposes; and

883 (B) account for the lease payments as payments made under a financing arrangement.

884 ~~[(74)]~~ (77) "Sales price" is as defined in Subsection ~~[(61)]~~ (63).

885 ~~[(75)]~~ (78) (a) "Sales relating to schools" means the following sales by, amounts paid  
886 to, or amounts charged by a school:

887 (i) sales that are directly related to the school's educational functions or activities

888 including:

889 (A) the sale of:

890 (I) textbooks;

891 (II) textbook fees;

892 (III) laboratory fees;

893 (IV) laboratory supplies; or

894 (V) safety equipment;

895 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

896 that:

897 (I) a student is specifically required to wear as a condition of participation in a  
898 school-related event or school-related activity; and

899 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
900 place of ordinary clothing;

901 (C) sales of the following if the net or gross revenues generated by the sales are  
902 deposited into a school district fund or school fund dedicated to school meals:

903 (I) food and food ingredients; or

904 (II) prepared food; or

905 (D) transportation charges for official school activities; or

906 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
907 event or school-related activity.

908 (b) "Sales relating to schools" does not include:

909 (i) bookstore sales of items that are not educational materials or supplies;

910 (ii) except as provided in Subsection [~~(75)~~] (78)(a)(i)(B):

911 (A) clothing;

912 (B) clothing accessories or equipment;

913 (C) protective equipment; or

914 (D) sports or recreational equipment; or

915 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
916 event or school-related activity if the amounts paid or charged are passed through to a person:

917 (A) other than a:

918 (I) school;

919 (II) nonprofit organization authorized by a school board or a governing body of a  
920 private school to organize and direct a competitive secondary school activity; or

921 (III) nonprofit association authorized by a school board or a governing body of a  
922 private school to organize and direct a competitive secondary school activity; and

923 (B) that is required to collect sales and use taxes under this chapter.

924 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
925 commission may make rules defining the term "passed through."

926 [~~(76)~~] (79) For purposes of this section and Section 59-12-104, "school" means:

- 927 (a) an elementary school or a secondary school that:
- 928 (i) is a:
- 929 (A) public school; or
- 930 (B) private school; and
- 931 (ii) provides instruction for one or more grades kindergarten through 12; or
- 932 (b) a public school district.
- 933 [~~(77)~~] (80) "Seller" means a person that makes a sale, lease, or rental of:
- 934 (a) tangible personal property; or
- 935 (b) a service.
- 936 [~~(78)~~] (81) (a) "Semiconductor fabricating or processing materials" means tangible
- 937 personal property:
- 938 (i) used primarily in the process of:
- 939 (A) (I) manufacturing a semiconductor; or
- 940 (II) fabricating a semiconductor; or
- 941 (B) maintaining an environment suitable for a semiconductor; or
- 942 (ii) consumed primarily in the process of:
- 943 (A) (I) manufacturing a semiconductor; or
- 944 (II) fabricating a semiconductor; or
- 945 (B) maintaining an environment suitable for a semiconductor.
- 946 (b) "Semiconductor fabricating or processing materials" includes:
- 947 (i) parts used in the repairs or renovations of tangible personal property described in
- 948 Subsection [~~(78)~~] (81)(a); or
- 949 (ii) a chemical, catalyst, or other material used to:
- 950 (A) produce or induce in a semiconductor a:
- 951 (I) chemical change; or
- 952 (II) physical change;
- 953 (B) remove impurities from a semiconductor; or
- 954 (C) improve the marketable condition of a semiconductor.
- 955 [~~(79)~~] (82) "Senior citizen center" means a facility having the primary purpose of
- 956 providing services to the aged as defined in Section 62A-3-101.
- 957 [~~(80)~~] (83) "Simplified electronic return" means the electronic return:

- 958 (a) described in Section 318(C) of the agreement; and
- 959 (b) approved by the governing board of the agreement.
- 960 [~~(81)~~] (84) "Solar energy" means the sun used as the sole source of energy for
- 961 producing electricity.
- 962 [~~(82)~~] (85) (a) "Sports or recreational equipment" means an item:
- 963 (i) designed for human use; and
- 964 (ii) that is:
- 965 (A) worn in conjunction with:
- 966 (I) an athletic activity; or
- 967 (II) a recreational activity; and
- 968 (B) not suitable for general use.
- 969 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 970 commission shall make rules:
- 971 (i) listing the items that constitute "sports or recreational equipment"; and
- 972 (ii) that are consistent with the list of items that constitute "sports or recreational
- 973 equipment" under the agreement.
- 974 [~~(83)~~] (86) "State" means the state of Utah, its departments, and agencies.
- 975 [~~(84)~~] (87) "Storage" means any keeping or retention of tangible personal property or
- 976 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 977 except sale in the regular course of business.
- 978 [~~(85)~~] (88) (a) "Tangible personal property" means personal property that:
- 979 (i) may be:
- 980 (A) seen;
- 981 (B) weighed;
- 982 (C) measured;
- 983 (D) felt; or
- 984 (E) touched; or
- 985 (ii) is in any manner perceptible to the senses.
- 986 (b) "Tangible personal property" includes:
- 987 (i) electricity;
- 988 (ii) water;



- 989 (iii) gas;  
990 (iv) steam; or  
991 (v) prewritten computer software.

992 (89) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon  
993 and require further processing other than mechanical blending before becoming finished  
994 petroleum products.

995 [~~86~~] (90) (a) "Telephone service" means a two-way transmission:

- 996 (i) by:  
997 (A) wire;  
998 (B) radio;  
999 (C) lightwave; or  
1000 (D) other electromagnetic means; and

1001 (ii) of one or more of the following:

- 1002 (A) a sign;  
1003 (B) a signal;  
1004 (C) writing;  
1005 (D) an image;  
1006 (E) sound;  
1007 (F) a message;  
1008 (G) data; or  
1009 (H) other information of any nature.

1010 (b) "Telephone service" includes:

- 1011 (i) mobile telecommunications service;  
1012 (ii) private communications service; or  
1013 (iii) automated digital telephone answering service.

1014 (c) "Telephone service" does not include a service or a transaction that a state or a  
1015 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet  
1016 Tax Freedom Act, Pub. L. No. 105-277.

1017 [~~87~~] (91) Notwithstanding where a call is billed or paid, "telephone service address"  
1018 means:

1019 (a) if the location described in this Subsection [~~87~~] (91)(a) is known, the location of

1020 the telephone service equipment:

1021 (i) to which a call is charged; and

1022 (ii) from which the call originates or terminates;

1023 (b) if the location described in Subsection [~~(87)~~] (91)(a) is not known but the location  
1024 described in this Subsection [~~(87)~~] (91)(b) is known, the location of the origination point of the  
1025 signal of the telephone service first identified by:

1026 (i) the telecommunications system of the seller; or

1027 (ii) if the system used to transport the signal is not that of the seller, information  
1028 received by the seller from its service provider; or

1029 (c) if the locations described in Subsection [~~(87)~~] (91)(a) or (b) are not known, the  
1030 location of a purchaser's primary place of use.

1031 [~~(88)~~] (92) (a) "Telephone service provider" means a person that:

1032 (i) owns, controls, operates, or manages a telephone service; and

1033 (ii) engages in an activity described in Subsection [~~(88)~~] (92)(a)(i) for the shared use  
1034 with or resale to any person of the telephone service.

1035 (b) A person described in Subsection [~~(88)~~] (92)(a) is a telephone service provider  
1036 whether or not the Public Service Commission of Utah regulates:

1037 (i) that person; or

1038 (ii) the telephone service that the person owns, controls, operates, or manages.

1039 [~~(89)~~] (93) "Tobacco" means:

1040 (a) a cigarette;

1041 (b) a cigar;

1042 (c) chewing tobacco;

1043 (d) pipe tobacco; or

1044 (e) any other item that contains tobacco.

1045 [~~(90)~~] (94) (a) "Use" means the exercise of any right or power over tangible personal  
1046 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that  
1047 property, item, or service.

1048 (b) "Use" does not include the sale, display, demonstration, or trial of that property in  
1049 the regular course of business and held for resale.

1050 [~~(91)~~] (95) (a) Subject to Subsection [~~(91)~~] (95)(b), "vehicle" means the following that

1051 are required to be titled, registered, or titled and registered:

1052 (i) an aircraft as defined in Section 72-10-102;

1053 (ii) a vehicle as defined in Section 41-1a-102;

1054 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1055 (iv) a vessel as defined in Section 41-1a-102.

1056 (b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:

1057 (i) a vehicle described in Subsection [~~(91)~~] (95)(a); or

1058 (ii) (A) a locomotive;

1059 (B) a freight car;

1060 (C) railroad work equipment; or

1061 (D) other railroad rolling stock.

1062 [~~(92)~~] (96) "Vehicle dealer" means a person engaged in the business of buying, selling,

1063 or exchanging a vehicle as defined in Subsection [~~(91)~~] (95).

1064 [~~(93)~~] (97) (a) Except as provided in Subsection [~~(93)~~] (97)(b), "waste energy facility"

1065 means a facility that generates electricity:

1066 (i) using as the primary source of energy waste materials that would be placed in a

1067 landfill or refuse pit if it were not used to generate electricity, including:

1068 (A) tires;

1069 (B) waste coal; or

1070 (C) oil shale; and

1071 (ii) in amounts greater than actually required for the operation of the facility.

1072 (b) "Waste energy facility" does not include a facility that incinerates:

1073 (i) municipal solid waste;

1074 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1075 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1076 [~~(94)~~] (98) "Watercraft" means a vessel as defined in Section 73-18-2.

1077 [~~(95)~~] (99) "Wind energy" means wind used as the sole source of energy to produce

1078 electricity.

1079 [~~(96)~~] (100) "ZIP Code" means a Zoning Improvement Plan Code assigned to a

1080 geographic location by the United States Postal Service.

1081 Section 5. Section **59-12-104** is amended to read:

1082           **59-12-104. Exemptions.**

1083           The following sales and uses are exempt from the taxes imposed by this chapter:

1084           (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
1085 under Chapter 13, Motor and Special Fuel Tax Act;1086           (2) sales to the state, its institutions, and its political subdivisions; however, this  
1087 exemption does not apply to sales of:

1088           (a) construction materials except:

1089           (i) construction materials purchased by or on behalf of institutions of the public  
1090 education system as defined in Utah Constitution Article X, Section 2, provided the  
1091 construction materials are clearly identified and segregated and installed or converted to real  
1092 property which is owned by institutions of the public education system; and1093           (ii) construction materials purchased by the state, its institutions, or its political  
1094 subdivisions which are installed or converted to real property by employees of the state, its  
1095 institutions, or its political subdivisions; or1096           (b) tangible personal property in connection with the construction, operation,  
1097 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
1098 providing additional project capacity, as defined in Section 11-13-103;

1099           (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1100           (i) the proceeds of each sale do not exceed \$1; and

1101           (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
1102 the cost of the item described in Subsection (3)(b) as goods consumed; and

1103           (b) Subsection (3)(a) applies to:

1104           (i) food and food ingredients; or

1105           (ii) prepared food;

1106           (4) sales of the following to a commercial airline carrier for in-flight consumption:

1107           (a) food and food ingredients;

1108           (b) prepared food; or

1109           (c) services related to Subsection (4)(a) or (b);

1110           (5) sales of parts and equipment for installation in aircraft operated by common carriers  
1111 in interstate or foreign commerce;

1112           (6) sales of commercials, motion picture films, prerecorded audio program tapes or

- 1113 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
1114 exhibitor, distributor, or commercial television or radio broadcaster;
- 1115 (7) sales of cleaning or washing of tangible personal property by a coin-operated  
1116 laundry or dry cleaning machine;
- 1117 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
1118 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
1119 fulfilled;
- 1120 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of  
1121 this state which are made to bona fide nonresidents of this state and are not afterwards  
1122 registered or used in this state except as necessary to transport them to the borders of this state;
- 1123 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 1124 (i) the item is intended for human use; and
- 1125 (ii) (A) a prescription was issued for the item; or
- 1126 (B) the item was purchased by a hospital or other medical facility; and
- 1127 (b) (i) Subsection (10)(a) applies to:
- 1128 (A) a drug;
- 1129 (B) a syringe; or
- 1130 (C) a stoma supply; and
- 1131 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1132 commission may by rule define the terms:
- 1133 (A) "syringe"; or
- 1134 (B) "stoma supply";
- 1135 (11) sales or use of property, materials, or services used in the construction of or  
1136 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 1137 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 1138 (i) the following if the item described in Subsection (12)(c) is not available to the  
1139 general public:
- 1140 (A) a church; or
- 1141 (B) a charitable institution;
- 1142 (ii) an institution of higher education if:
- 1143 (A) the item described in Subsection (12)(c) is not available to the general public; or

- 1144 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1145 offered by the institution of higher education; or
- 1146 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 1147 (i) a medical facility; or
- 1148 (ii) a nursing facility; and
- 1149 (c) Subsections (12)(a) and (b) apply to:
- 1150 (i) food and food ingredients;
- 1151 (ii) prepared food; or
- 1152 (iii) alcoholic beverages;
- 1153 (13) isolated or occasional sales by persons not regularly engaged in business, except
- 1154 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
- 1155 which case the tax is based upon:
- 1156 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
- 1157 or
- 1158 (b) in the absence of a bill of sale or other written evidence of value, the then existing
- 1159 fair market value of the vehicle or vessel being sold as determined by the commission;
- 1160 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:
- 1161 (i) machinery and equipment:
- 1162 (A) used in the manufacturing process;
- 1163 (B) having an economic life of three or more years; and
- 1164 (C) used:
- 1165 (I) to manufacture an item sold as tangible personal property; and
- 1166 (II) in new or expanding operations in a manufacturing facility in the state; and
- 1167 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
- 1168 (A) have an economic life of three or more years;
- 1169 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 1170 (C) are used to replace or adapt an existing machine to extend the normal estimated
- 1171 useful life of the machine; and
- 1172 (D) do not include repairs and maintenance;
- 1173 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
- 1174 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in

1175 Subsection (14)(a)(ii) is exempt;

1176       (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described

1177 in Subsection (14)(a)(ii) is exempt; and

1178       (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection

1179 (14)(a)(ii) is exempt;

1180       (c) for purposes of this Subsection (14), the commission shall by rule define the terms

1181 "new or expanding operations" and "establishment"; and

1182       (d) on or before October 1, 1991, and every five years after October 1, 1991, the

1183 commission shall:

1184       (i) review the exemptions described in Subsection (14)(a) and make recommendations

1185 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be

1186 continued, modified, or repealed; and

1187       (ii) include in its report:

1188           (A) the cost of the exemptions;

1189           (B) the purpose and effectiveness of the exemptions; and

1190           (C) the benefits of the exemptions to the state;

1191       (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1192           (i) tooling;

1193           (ii) special tooling;

1194           (iii) support equipment;

1195           (iv) special test equipment; or

1196           (v) parts used in the repairs or renovations of tooling or equipment described in

1197 Subsections (15)(a)(i) through (iv); and

1198       (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1199           (i) the tooling, equipment, or parts are used or consumed exclusively in the

1200 performance of any aerospace or electronics industry contract with the United States

1201 government or any subcontract under that contract; and

1202           (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

1203 title to the tooling, equipment, or parts is vested in the United States government as evidenced

1204 by:

1205           (A) a government identification tag placed on the tooling, equipment, or parts; or

1206 (B) listing on a government-approved property record if placing a government  
1207 identification tag on the tooling, equipment, or parts is impractical;  
1208 (16) intrastate movements of:  
1209 (a) freight by common carriers; or  
1210 (b) passengers:  
1211 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial  
1212 Classification Manual of the federal Executive Office of the President, Office of Management  
1213 and Budget;  
1214 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard  
1215 Industrial Classification Manual of the federal Executive Office of the President, Office of  
1216 Management and Budget, if the transportation originates and terminates within a county of the  
1217 first, second, or third class; or  
1218 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard  
1219 Industrial Classification Manual of the federal Executive Office of the President, Office of  
1220 Management and Budget:  
1221 (A) a horse-drawn cab; or  
1222 (B) a horse-drawn carriage;  
1223 (17) sales of newspapers or newspaper subscriptions;  
1224 (18) (a) except as provided in Subsection (18)(b), tangible personal property traded in  
1225 as full or part payment of the purchase price, except that for purposes of calculating sales or use  
1226 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and  
1227 the tax is based upon:  
1228 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
1229 vehicle being traded in; or  
1230 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
1231 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
1232 commission; and  
1233 (b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the  
1234 following items of tangible personal property traded in as full or part payment of the purchase  
1235 price:  
1236 (i) money;



1237 (ii) electricity;  
1238 (iii) water;  
1239 (iv) gas; or  
1240 (v) steam;  
1241 (19) (a) (i) except as provided in Subsection (19)(b), sales of tangible personal property  
1242 used or consumed primarily and directly in farming operations, regardless of whether the  
1243 tangible personal property:  
1244 (A) becomes part of real estate; or  
1245 (B) is installed by a:  
1246 (I) farmer;  
1247 (II) contractor; or  
1248 (III) subcontractor; or  
1249 (ii) sales of parts used in the repairs or renovations of tangible personal property if the  
1250 tangible personal property is exempt under Subsection (19)(a)(i); and  
1251 (b) notwithstanding Subsection (19)(a), amounts paid or charged for the following  
1252 tangible personal property are subject to the taxes imposed by this chapter:  
1253 (i) (A) subject to Subsection (19)(b)(i)(B), the following tangible personal property if  
1254 the tangible personal property is used in a manner that is incidental to farming:  
1255 (I) machinery;  
1256 (II) equipment;  
1257 (III) materials; or  
1258 (IV) supplies; and  
1259 (B) tangible personal property that is considered to be used in a manner that is  
1260 incidental to farming includes:  
1261 (I) hand tools; or  
1262 (II) maintenance and janitorial equipment and supplies;  
1263 (ii) (A) subject to Subsection (19)(b)(ii)(B), tangible personal property if the tangible  
1264 personal property is used in an activity other than farming; and  
1265 (B) tangible personal property that is considered to be used in an activity other than  
1266 farming includes:  
1267 (I) office equipment and supplies; or

- 1268 (II) equipment and supplies used in:
- 1269 (Aa) the sale or distribution of farm products;
- 1270 (Bb) research; or
- 1271 (Cc) transportation; or
- 1272 (iii) a vehicle required to be registered by the laws of this state during the period ending
- 1273 two years after the date of the vehicle's purchase;
- 1274 (20) sales of hay;
- 1275 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
- 1276 other agricultural produce if sold by a producer during the harvest season;
- 1277 (22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 1278 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 1279 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 1280 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 1281 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 1282 manufacturer, processor, wholesaler, or retailer;
- 1283 (24) property stored in the state for resale;
- 1284 (25) property brought into the state by a nonresident for his or her own personal use or
- 1285 enjoyment while within the state, except property purchased for use in Utah by a nonresident
- 1286 living and working in Utah at the time of purchase;
- 1287 (26) property purchased for resale in this state, in the regular course of business, either
- 1288 in its original form or as an ingredient or component part of a manufactured or compounded
- 1289 product;
- 1290 (27) property upon which a sales or use tax was paid to some other state, or one of its
- 1291 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
- 1292 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
- 1293 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
- 1294 Act;
- 1295 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
- 1296 person for use in compounding a service taxable under the subsections;
- 1297 (29) purchases made in accordance with the special supplemental nutrition program for
- 1298 women, infants, and children established in 42 U.S.C. Sec. 1786;

- 1299 (30) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
1300 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
1301 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
1302 Manual of the federal Executive Office of the President, Office of Management and Budget;
- 1303 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State  
1304 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of  
1305 this state and are not thereafter registered or used in this state except as necessary to transport  
1306 them to the borders of this state;
- 1307 (32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah  
1308 where a sales or use tax is not imposed, even if the title is passed in Utah;
- 1309 (33) amounts paid for the purchase of telephone service for purposes of providing  
1310 telephone service;
- 1311 (34) fares charged to persons transported directly by a public transit district created  
1312 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
- 1313 (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
- 1314 (36) (a) 45% of the sales price of any new manufactured home; and  
1315 (b) 100% of the sales price of any used manufactured home;
- 1316 (37) sales relating to schools and fundraising sales;
- 1317 (38) sales or rentals of durable medical equipment if:  
1318 (a) a person presents a prescription for the durable medical equipment; and  
1319 (b) the durable medical equipment is used for home use only;
- 1320 (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
1321 Section 72-11-102; and  
1322 (b) the commission shall by rule determine the method for calculating sales exempt  
1323 under Subsection (39)(a) that are not separately metered and accounted for in utility billings;
- 1324 (40) sales to a ski resort of:  
1325 (a) snowmaking equipment;  
1326 (b) ski slope grooming equipment;  
1327 (c) passenger ropeways as defined in Section 72-11-102; or  
1328 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
1329 described in Subsections (40)(a) through (c);

- 1330 (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1331 (42) sales or rentals of the right to use or operate for amusement, entertainment, or
- 1332 recreation a coin-operated amusement device as defined in Section 59-12-102;
- 1333 (43) sales of cleaning or washing of tangible personal property by a coin-operated car
- 1334 wash machine;
- 1335 (44) sales by the state or a political subdivision of the state, except state institutions of
- 1336 higher education as defined in Section 53B-3-102, of:
  - 1337 (a) photocopies; or
  - 1338 (b) other copies of records held or maintained by the state or a political subdivision of
  - 1339 the state;
  - 1340 (45) (a) amounts paid:
    - 1341 (i) to a person providing intrastate transportation to an employer's employee to or from
    - 1342 the employee's primary place of employment;
    - 1343 (ii) by an:
      - 1344 (A) employee; or
      - 1345 (B) employer; and
      - 1346 (iii) pursuant to a written contract between:
        - 1347 (A) the employer; and
        - 1348 (B) (I) the employee; or
        - 1349 (II) a person providing transportation to the employer's employee; and
    - 1350 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
    - 1351 commission may for purposes of Subsection (45)(a) make rules defining what constitutes an
    - 1352 employee's primary place of employment;
  - 1353 (46) amounts paid for admission to an athletic event at an institution of higher
  - 1354 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
  - 1355 20 U.S.C. Sec. 1681 et seq.;
  - 1356 (47) sales of telephone service charged to a prepaid telephone calling card;
  - 1357 (48) (a) sales of:
    - 1358 (i) hearing aids;
    - 1359 (ii) hearing aid accessories; or
    - 1360 (iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations

1361 of hearing aids or hearing aid accessories; and  
1362 (b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii),  
1363 "parts" does not include batteries;  
1364 (49) (a) sales made to or by:  
1365 (i) an area agency on aging; or  
1366 (ii) a senior citizen center owned by a county, city, or town; or  
1367 (b) sales made by a senior citizen center that contracts with an area agency on aging;  
1368 (50) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection  
1369 (50)(b), a sale or lease of semiconductor fabricating or processing materials regardless of  
1370 whether the semiconductor fabricating or processing materials:  
1371 (i) actually come into contact with a semiconductor; or  
1372 (ii) ultimately become incorporated into real property;  
1373 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease  
1374 described in Subsection (50)(a) is exempt;  
1375 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease  
1376 described in Subsection (50)(a) is exempt; and  
1377 (iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or  
1378 lease described in Subsection (50)(a) is exempt; and  
1379 (c) each year on or before the November interim meeting, the Revenue and Taxation  
1380 Interim Committee shall:  
1381 (i) review the exemption described in this Subsection (50) and make recommendations  
1382 concerning whether the exemption should be continued, modified, or repealed; and  
1383 (ii) include in the review under this Subsection (50)(c):  
1384 (A) the cost of the exemption;  
1385 (B) the purpose and effectiveness of the exemption; and  
1386 (C) the benefits of the exemption to the state;  
1387 (51) an amount paid by or charged to a purchaser for accommodations and services  
1388 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
1389 59-12-104.2;  
1390 (52) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
1391 sports event registration certificate in accordance with Section 41-3-306 for the event period

- 1392 specified on the temporary sports event registration certificate;
- 1393       (53) sales or uses of electricity, if the sales or uses are:
  - 1394           (a) made under a tariff adopted by the Public Service Commission of Utah only for
  - 1395 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
  - 1396 source, as designated in the tariff by the Public Service Commission of Utah; and
  - 1397           (b) for an amount of electricity that is:
    - 1398               (i) unrelated to the amount of electricity used by the person purchasing the electricity
    - 1399 under the tariff described in Subsection (53)(a); and
    - 1400               (ii) equivalent to the number of kilowatthours specified in the tariff described in
    - 1401 Subsection (53)(a) that may be purchased under the tariff described in Subsection (53)(a);
  - 1402           (54) sales or rentals of mobility enhancing equipment if a person presents a
  - 1403 prescription for the mobility enhancing equipment;
  - 1404           (55) sales of water in a:
    - 1405               (a) pipe;
    - 1406               (b) conduit;
    - 1407               (c) ditch; or
    - 1408               (d) reservoir;
  - 1409           (56) sales of currency or coinage that constitute legal tender of the United States or of a
  - 1410 foreign nation;
  - 1411           (57) (a) sales of an item described in Subsection (57)(b) if the item:
    - 1412               (i) does not constitute legal tender of any nation; and
    - 1413               (ii) has a gold, silver, or platinum content of 80% or more; and
    - 1414               (b) Subsection (57)(a) applies to a gold, silver, or platinum:
      - 1415                   (i) ingot;
      - 1416                   (ii) bar;
      - 1417                   (iii) medallion; or
      - 1418                   (iv) decorative coin;
  - 1419           (58) amounts paid on a sale-leaseback transaction;
  - 1420           (59) sales of a prosthetic device:
    - 1421               (a) for use on or in a human;
    - 1422               (b) for which a prescription is issued; and

1423 (c) to a person that presents a prescription for the prosthetic device;

1424 (60) (a) except as provided in Subsection (60)(b), purchases, leases, or rentals of

1425 machinery or equipment by an establishment described in Subsection (60)(c) if the machinery

1426 or equipment is primarily used in the production or postproduction of the following media for

1427 commercial distribution:

1428 (i) a motion picture;

1429 (ii) a television program;

1430 (iii) a movie made for television;

1431 (iv) a music video;

1432 (v) a commercial;

1433 (vi) a documentary; or

1434 (vii) a medium similar to Subsections (60)(a)(i) through (vi) as determined by the

1435 commission by administrative rule made in accordance with Subsection (60)(d); or

1436 (b) notwithstanding Subsection (60)(a), purchases, leases, or rentals of machinery or

1437 equipment by an establishment described in Subsection (60)(c) that is used for the production

1438 or postproduction of the following are subject to the taxes imposed by this chapter:

1439 (i) a live musical performance;

1440 (ii) a live news program; or

1441 (iii) a live sporting event;

1442 (c) the following establishments listed in the 1997 North American Industry

1443 Classification System of the federal Executive Office of the President, Office of Management

1444 and Budget, apply to Subsections (60)(a) and (b):

1445 (i) NAICS Code 512110; or

1446 (ii) NAICS Code 51219; and

1447 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1448 commission may by rule:

1449 (i) prescribe what constitutes a medium similar to Subsections (60)(a)(i) through (vi);

1450 or

1451 (ii) define:

1452 (A) "commercial distribution";

1453 (B) "live musical performance";

- 1454 (C) "live news program"; or
- 1455 (D) "live sporting event";
- 1456 (61) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 1457 or before June 30, 2009, of machinery or equipment that:
- 1458 (i) is leased or purchased for or by a facility that:
- 1459 (A) is a renewable energy production facility;
- 1460 (B) is located in the state; and
- 1461 (C) (I) becomes operational on or after July 1, 2004; or
- 1462 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1463 2004 as a result of the use of the machinery or equipment;
- 1464 (ii) has an economic life of five or more years; and
- 1465 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1466 Subsection (61)(a)(i) operational up to the point of interconnection with an existing
- 1467 transmission grid including:
- 1468 (A) a wind turbine;
- 1469 (B) generating equipment;
- 1470 (C) a control and monitoring system;
- 1471 (D) a power line;
- 1472 (E) substation equipment;
- 1473 (F) lighting;
- 1474 (G) fencing;
- 1475 (H) pipes; or
- 1476 (I) other equipment used for locating a power line or pole; and
- 1477 (b) this Subsection (61) does not apply to:
- 1478 (i) machinery or equipment used in construction of:
- 1479 (A) a new renewable energy production facility; or
- 1480 (B) the increase in the capacity of a renewable energy production facility;
- 1481 (ii) contracted services required for construction and routine maintenance activities;
- 1482 and
- 1483 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1484 of the facility described in Subsection (61)(a)(i)(C)(II), machinery or equipment used or



1485 acquired after:

1486 (A) the renewable energy production facility described in Subsection (61)(a)(i) is  
1487 operational as described in Subsection (61)(a)(iii); or

1488 (B) the increased capacity described in Subsection (61)(a)(i) is operational as described  
1489 in Subsection (61)(a)(iii);

1490 (62) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on  
1491 or before June 30, 2009, of machinery or equipment that:

1492 (i) is leased or purchased for or by a facility that:

1493 (A) is a waste energy production facility;

1494 (B) is located in the state; and

1495 (C) (I) becomes operational on or after July 1, 2004; or

1496 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
1497 2004 as a result of the use of the machinery or equipment;

1498 (ii) has an economic life of five or more years; and

1499 (iii) is used to make the facility or the increase in capacity of the facility described in  
1500 Subsection (62)(a)(i) operational up to the point of interconnection with an existing  
1501 transmission grid including:

1502 (A) generating equipment;

1503 (B) a control and monitoring system;

1504 (C) a power line;

1505 (D) substation equipment;

1506 (E) lighting;

1507 (F) fencing;

1508 (G) pipes; or

1509 (H) other equipment used for locating a power line or pole; and

1510 (b) this Subsection (62) does not apply to:

1511 (i) machinery or equipment used in construction of:

1512 (A) a new waste energy facility; or

1513 (B) the increase in the capacity of a waste energy facility;

1514 (ii) contracted services required for construction and routine maintenance activities;

1515 and

1516 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
1517 described in Subsection (62)(a)(i)(C)(II), machinery or equipment used or acquired after:

1518 (A) the waste energy facility described in Subsection (62)(a)(i) is operational as  
1519 described in Subsection (62)(a)(iii); or

1520 (B) the increased capacity described in Subsection (62)(a)(i) is operational as described  
1521 in Subsection (62)(a)(iii);

1522 (63) (a) leases of five or more years or purchases made on or after July 1, 2004 but on  
1523 or before June 30, 2009, of machinery or equipment that:

1524 (i) is leased or purchased for or by a facility that:

1525 (A) is located in the state;

1526 (B) produces fuel from biomass energy including:

1527 (I) methanol; or

1528 (II) ethanol; and

1529 (C) (I) becomes operational on or after July 1, 2004; or

1530 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as  
1531 a result of the installation of the machinery or equipment;

1532 (ii) has an economic life of five or more years; and

1533 (iii) is installed on the facility described in Subsection (63)(a)(i);

1534 (b) this Subsection (63) does not apply to:

1535 (i) machinery or equipment used in construction of:

1536 (A) a new facility described in Subsection (63)(a)(i); or

1537 (B) the increase in capacity of the facility described in Subsection (63)(a)(i); or

1538 (ii) contracted services required for construction and routine maintenance activities;

1539 and

1540 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
1541 described in Subsection (63)(a)(i)(C)(II), machinery or equipment used or acquired after:

1542 (A) the facility described in Subsection (63)(a)(i) is operational; or

1543 (B) the increased capacity described in Subsection (63)(a)(i) is operational;

1544 (64) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle  
1545 for purchasing the new vehicle;

1546 (65) (a) subject to Subsection (65)(b), sales of tangible personal property to persons

1547 within this state that is subsequently shipped outside the state and incorporated pursuant to  
1548 contract into and becomes a part of real property located outside of this state, except to the  
1549 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar  
1550 transaction excise tax on it against which the other state or political entity allows a credit for  
1551 taxes imposed by this chapter; and

1552 (b) the exemption provided for in Subsection (65)(a):

1553 (i) is allowed only if the exemption is applied:

1554 (A) in calculating the purchase price of the tangible personal property; and

1555 (B) to a written contract that is in effect on July 1, 2004; and

1556 (ii) (A) does not apply beginning on the day on which the contract described in  
1557 Subsection (65)(b)(i):

1558 (I) is substantially modified; or

1559 (II) terminates; and

1560 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
1561 the commission may by rule prescribe the circumstances under which a contract is substantially  
1562 modified;

1563 (66) purchases:

1564 (a) of one or more of the following items in printed or electronic format:

1565 (i) a list containing information that includes one or more:

1566 (A) names; or

1567 (B) addresses; or

1568 (ii) a database containing information that includes one or more:

1569 (A) names; or

1570 (B) addresses; and

1571 (b) used to send direct mail; and

1572 (67) redemptions or repurchases of property by a person if that property was:

1573 (a) delivered to a pawnbroker as part of a pawn transaction; ~~and~~

1574 (b) redeemed or repurchased within the time period established in a written agreement  
1575 between the person and the pawnbroker for redeeming or repurchasing the property[-]; and

1576 (68) beginning on July 1, 2006 and ending on June 30, 2016, tangible personal property  
1577 in connection with the research and development of coal-to-liquids, oil shale, or tar sands

1578 technology.

1579 Section 6. **Effective date.**

1580 This bill takes effect on July 1, 2006.

---

---

**Legislative Review Note**

**as of 2-14-06 11:05 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**State Impact**

Passage of this bill could reduce the General Fund by \$2,000,000 annually. There is also the potential for diverting future General Fund revenues due to the exemption from severance tax payments.

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2007</u>	<u>FY 2008</u>
	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>
General Fund	\$0	\$0	(\$2,000,000)	(\$2,000,000)
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$2,000,000)</b>	<b>(\$2,000,000)</b>

---

---

**Individual and Business Impact**

Some businesses could see a reduction in their tax liability.

---

---